

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

The Estate of Marie Beneziano, by and	:	CIVIL ACTION NO.:
through her Executrices, Diane Quade and	:	
Susan Provence,	:	
	:	
Plaintiffs	:	
	:	
v.	:	NOTICE OF REMOVAL
	:	
Sunrise of Lincroft; Prime Care One, LLC;	:	
PCI, LLC; Prime Care Corp., Sunrise Senior	:	
Living, Inc.; Sunrise Senior Living	:	
Management, Inc.; ABC Companies (1-10);	:	(New Jersey Superior Court, Civil
DEF Partnerships (1-10); John Doe	:	Division, Monmouth County,
Physicians (1-10); Jane Doe Nurses (1-20);	:	Docket No.: MON-L-001916-11)
Jane Moe Technicians (1-10); and CNA's and	:	
Paramedical Employees (1-20),	:	<u>Document Electronically Filed</u>
	:	
Defendants.	:	

NOTICE OF REMOVAL OF DEFENDANTS, SUNRISE SENIOR LIVING, INC.;
AND SUNRISE SENIOR LIVING MANAGEMENT, INC.

TO: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY –
MONMOUTH COUNTY
Clerk of Court
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets Room 1050
Camden, NJ 08101

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§1331, 1332, and 1441, Defendants, Sunrise Senior Living, Inc.; and Sunrise Senior Living Management, Inc. (hereafter “Sunrise”), in the above-captioned matter file this Notice of Removal of the above captioned matter to the United States District Court for the District of New Jersey from the Superior Court of New Jersey, Law Division, Monmouth County, Docket No. MON-L-001916-11, where the action is now pending. Defendants, by and through their undersigned counsel, respectfully state the following as grounds for removal of this action:

1. This action was commenced, on or about April 21, 2011, by way of plaintiffs filing a Complaint in the Superior Court of New Jersey, Monmouth County and docketed as No. MON-L-001916-11, against Defendants: Sunrise of Lincroft; Sunrise Senior Living, Inc.; and Senior Living Management, Inc., of 7902 Westpark Drive, McLean, VA 22102; Prime Care One, LLC; PC1, LLC; and Prime Care Corp. and numerous fictitious entities and individuals. (See, Compl., attached hereto as Ex. A).

2. On June 16, 2011, plaintiff served the Complaint on Sunrise Defendants by Sheriff's service. (Ex. A).

3. Defendants, hereby exercise their rights under the provisions of 28 U.S.C. §1441, *et seq.*, to remove this action from the Superior Court of New Jersey, Monmouth County, in which this case is presently pending.

4. It is believed and therefore averred that the amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.

5. The present lawsuit is removable from the State Superior Court to the United States District Court for the District of New Jersey pursuant to 28 U.S.C. §1331 and §1441(a) because the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C. §1331.

6. Moreover, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331, because there is a federal question.

7. The federal question involves allegations of negligence *per se* made pursuant to 42 U.S.C. 483.1 *et seq.* (Ex. A, at ¶¶18(a)-(g)).

8. Further, the present lawsuit is removable from the State Superior Court to the United States District Court for the District of New Jersey pursuant to 28 U.S.C. §1332(a)(1) and

§1441(a) because the controversy in this action is between citizens of different states. Complete Diversity is established as follows:

- (a) Plaintiff, The Estate of Marie Beneziano, by and through her Executrices, Diane Quade and Susan Provence, reside at 116 Broadway Ave., Freehold, State of New Jersey, and, therefore, are citizens of the State of New Jersey.
- (b) Defendant, Sunrise of Lincroft, is not a legal entity but is merely the name of an assisted living facility. Thus, it does not have a citizenship for purposes of this removal.
- (c) Defendant, Sunrise Senior Living Management, Inc., is incorporated in the Commonwealth of Virginia, with its principal place of business located at 7900 Westpark Drive, McLean, VA. Therefore, Sunrise Senior Living Management, Inc. is a citizen of the Commonwealth of Virginia.
- (d) Defendant, Sunrise Senior Living, Inc. is an improper party to this litigation. Nevertheless, it is a Delaware corporation with its principal place of business in Virginia. Therefore, Sunrise Senior Living, Inc. is a citizen of either Delaware or Virginia.
- (e) Prime One Defendants have not entered an appearance. It is believed, and therefore averred, that these entities are incorporated outside of New Jersey with principal place of business outside of New Jersey. It is believed, and therefore averred, that these entities would consent to the removal of this action.

